

REMARKS / ARGUMENTS

The above identified patent application has been amended and reconsideration is hereby requested.

Claims 1 and 10 – 16, 24 and 25 are now pending in the application. Claims 2, 3, 5 – 9, 17, 18 and 19 – 23 have been withdrawn. New Claim 24, 25 and 26 have been added.

The Examiner has rejected Claims 1, 4 and 10 – 16 under 35 U.S.C. §102(b) as being anticipated by Fearnot et al. The Examiner's previous rejection of Claims 1, 4, 10 – 16 as being obvious under 35 U.S.C. §103(a) has been withdrawn in the Examiner's Answer of March 10, 2010.

The Applicant's independent Claim 1 now calls for (underlining added for emphasis) ... said stent having: (i) a single coating layer selected from a group consisting of: (i) (a) a hydrophilic polymer, (i)(b) a hydrophobic polymer, and (i) (c) a fatty acid polymer, and (ii) a density enhancing radiologic opacifier embedded into said single coating layer, said single coating layer and said embedded opacifier material together providing a first Hounsfield image density suitable for viewing under a first image modality used during device insertion into a patient, and wherein said density enhancing radiologic opacifier material is configured to elute from said single coating layer so as to provide a second Hounsfield image density suitable for viewing under a second image modality used for subsequent visualization of surrounding tissue.

In addition to the arguments set forth in Applicant/Appellant's Appeal Brief of November 30, 2009, whose content is incorporated by reference herein, the Applicant submits that independent Claim 1 as amended hereunder is not anticipated over Fearnot et al. since Fearnot et al. does not describe, teach or suggest the further limitations set forth in Claim 1 as discussed in the remarks below.

The Examiner indicates that Fearnot et al. teaches that a layer of radiologic opacifier material (a combination of particles of radiologic material), such as layer 18 of an iodine compound, which is a radiologic opacifier, is surrounded/embedded by polymer coating 20 and coating 16 of the same polymer as that of coating 20.

However, the Applicant submits that Fearnot et al. merely provides for multiple layering to provide a radiologic opacifier – polymer combination. Any elution taught in

Fearnot et al. would be from one layer through another layer. Fearnot et al. does not provide for a single coating layer selected from a group consisting of: (i) (a) a hydrophilic polymer, (i)(b) a hydrophobic polymer, and (i) (c) a fatty acid polymer, and (ii) a density enhancing radiologic opacifier embedded into said single coating layer, said single coating layer and said embedded opacifier material together providing a first Hounsfield image density suitable for viewing under a first image modality used during device insertion into a patient, and wherein said density enhancing radiologic opacifier material is configured to elute from said single coating layer so as to provide a second Hounsfield image density suitable for viewing under a second image modality used for subsequent visualization of surrounding tissue.

Accordingly, the Applicant submits that Claim 1 is not anticipated by Fearnot et al.

Claims 4, 10 – 16 are dependent on Claim 1. As such, these dependent claims are believed allowable based upon Claim 1.

In addition, with regard to new Claims 24 - 26, while believed allowable based upon being dependent on Claim 1, their additional limitations are not described, taught or suggested in Fearnot et al.

New Claim 24 calls for the density enhancing radiologic opacifier being a lyophilized density enhancing radiologic opacifier and finds support in the application as filed at paragraph [0068] of the published application. Such lyophilized density enhancing radiologic opacifier is not disclosed in Fearnot et al.

New Claims 25 and 26 respectively call for the stent having an image density of less than about 1200 Hounsfield Units, and the stent having an image density of less than about 400 Hounsfield Units, and find support in the application as filed at paragraph [0028] of the published application. Such range of Hounsfield Units are not disclosed in Fearnot et al.

In accordance with a telephone Interview held by Examiner Bui and Attorney Paciulan on May 4, 2010, proposed amendments to independent Claim 1 (as set forth herein) in view of the cited reference were discussed. The general thrust of the arguments discussed were as set forth above. The essence of new Claims 24 - 26 was also discussed. The Examiner indicated that the proposed amendments and the subject matter of the new claims would likely overcome the cited Fearnot et al. reference but would require further search and consideration pursuant to an RCE.

Therefore, in view of the above amendments and remarks it is submitted that the claims are patentably distinct over the prior art and that all the rejections to the claims have been overcome. As such, allowance of the above Application is requested.

Respectfully submitted,

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